

§Appl. No. 10/676,048
Amdt. dated September 27, 2005
Reply to Office Action of,

REMARKS/ARGUMENTS

Claims 1-8, 10-19 and 21-25 remain in this application for examination.

Response to Amendment:

There was a typographical error with respect to claim 12 and the Examiner's interpretation is correct, i.e. claim 20 is to be cancelled, not claim 12.

Claim Objections:

Applicant has amended claim 1 to recite that the walls are "upper and lower walls" instead of "top and bottom walls." In claim 1, line 6, Applicant recites that the "walls" referred to are "upper, lower and side walls" clarifying that Applicant is referring to all walls.

Claims 21-23 have been amended to depend from claim 1 which now includes the subject matter of cancelled claim 20. It is respectfully requested that claims 21-23 and 25 now be examined further with respect to their merits.

Claim Rejections Under 35 U.S.C. §112, second paragraph:

Applicant agrees with the Examiner's interpretation of the claim and has replaced the term "the extension" in line 10, with the term "the extrusion."

Claim 1 has been amended to emphasize that Applicant is claiming a window sleeve arrangement which does not specifically include a window unit or an opening through a building wall. The window sleeve arrangement is for any independent window unit which will fit logically in the window sleeve arrangement and for any building wall which is configured to receive the window sleeve unit. Applicant respectfully submits that claim 1 does not in lines 11, 13, 20 and 22 claim the window sleeve arrangement in combination with the window and the exterior surface of the building wall. It is clear from the preamble that Applicant is claiming "a window sleeve arrangement"

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because Applicant states "the window sleeving arrangement comprising:". Moreover, in each case Applicant recites that the structure comprising the window sleeve arrangement is configured for cooperating with certain existing structures of a building wall or an independent window unit. With respect to claim 24, Applicant has clarified that "the walls" are "walls the window sleeve arrangement".

Claim Rejections Under 35 U.S.C. §103:

Claims 1-4, 7, 8, 10, 17-19, 24 and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Riegelman, Jr. '220 in view of Biro '091. Applicant respectfully traverses this rejection.

Riegelman, Jr. '220 is antithetical to Applicant's claimed invention in that Riegelman, Jr. discloses a window sleeve made of metal material rather than plastic material in which upper, lower and side walls are a continuous extrusion of plastic material having abutting edges positioned at cuts through the continuous extrusion. The Examiner recognizes this distinction over Riegelman, Jr. '220 and in the Office Action at page 6, states:

Riegelman, Jr. does not disclose the top, bottom and side walls are a continuous extrusion of plastic material having abutting edges positioned at cuts through the extrusion, and the plastic is PVC, polyurethane, polypropylene or ABS; the inner molding is pivoted on the walls of the inner edges thereof and the moldings are coextruded with the walls of the window sleeve arrangement.

The Office Action then relies on Biro '091 to cure these deficiencies in Riegelman, Jr. as a reference against Applicant's claims. Applicant respectfully submits that a *prima facie* case of obviousness is not established by the combination of Biro '091 with Riegelman, Jr. '220. This is because Biro does not disclose a window sleeve arrangement made of a continuous extrusion of plastic material having abutting edges positioned at cuts through the extrusion, but rather discloses a window sash. This is clear from the text identified in the Office Action to support the rejection. Considering the paragraph

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containing column 4, lines 56-59, which paragraph extends from column 4, line 54 through column 5, line 30, it is seen that Biro '091 is referring to Fig. 2 in which a sash reinforcing member 150, that is part of a window sash 100 is described as being extruded from a resinous plastic material. Moreover, in column 3, lines 47-59 it is clear that the structure relied on in this rejection is the structure of a sash framing element 100 rather than a sleeve in which the sash framing element 100 is mounted. In order to formulate this rejection, it is necessary to combine the teachings from two different types of structures. A window sash does not correspond to a sleeve for receiving a window sash. Accordingly, to modify a window sleeve, such as the window sleeve of Riegelman, Jr. '220 that is made of metal with a widow sash, would be made by one skilled in the art only after exposure to Applicant's claimed invention.

This is readily apparent from the disclosure of Biro '091 which shows in Fig. 1, structure corresponding to Applicant's claimed window sleeve, i.e. "the window sill 8, jams 10, 12 and head 14." That these are separate elements, it is clear from Fig. 1 by the lines separating the sill 8, jams 10, 12 and head 14. There is absolutely no teaching that these separate elements 8, 10, 12 and 14 are a continuous plastic extrusion. Biro '091 states that the sill, jams and head "may take any form which is structurally compatible with the unique window sash member." Having Riegelman, Jr. '220 before him, Biro '091 did not think to make the structure (8, 10, 12 and 14), corresponding to Applicant's claimed window sleeve, as a continuous plastic extrusion. Accordingly, it is respectfully submitted that this combination of references evidences the patentability of Applicant's invention rather than obviousness of Applicant's invention.

Dependent claims 2-4, 7, 8, 10, 17-19, 24 and 25 each further limit claim 1 in that they are depended from claim 1. Consequently, each of these claims is patentable for the same reasons as claim 1. However, there are further reasons why these claims are patentable. For example, Applicant recites in dependent claims that the interior molding is pivoted on the walls at inner edges thereof and that the moldings are coextruded with the walls of the window sleeve arrangement. Applicant respectfully submits that there is simply no such structure, nor the suggestion of such

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structure, in the combination of Riegelman, Jr. '220 and Biro '091. Applicant respectfully submits that suggesting that a molding "could be pivoted" is conclusionary speculation. Moreover, the Office Actions conclusion that molding could be coextruded or integral with the walls of the window arrangement is a mere conclusion because the prior art simply does not teach a window sleeve arrangement with pivoted moldings thereon.

For the foregoing reasons, it is respectfully requested that the rejection under 35 U.S.C. §103(a) based on the combination of Riegelman, Jr. '220 and Biro '091 be withdrawn.

Claims 1, 5, 6 and 11-16 have also been rejected under 35 U.S.C. §103(a) as being unpatentable over Card '894 in view of Biro '091. Applicant respectfully traverses this rejection.

Card '894 was cited against Applicant's claims in the initial Office Action, however, there is a distinct difference between Applicant's claimed invention and Card. Applicant's claimed invention is a sleeve for receiving a window unit. As is evident from the drawings, the surfaces of the walls 32-35 are plainer and unobstructed so that window units 12 may readily slide therein during installation or replacement. The window sleeve arrangement does not include any window unit structure, consequently, the window unit structure 12 is independent of the sleeve and can simply slide into the sleeve. This is not the case in Card '894 because Card has structures such as the open channel 10 for receiving a window sash, i.e., that portion of a window unit which frames the glass. As is clear from various drawing cross sections in Card '894, the channels 10 receive window sashes that extend in a direction perpendicular to the cross sections. Consequently, Card '894 does not correspond to Applicant's claimed window sleeve arrangement because Card includes window unit structure as a part of the framing which is attached directly to walls and flanges which abut the window opening in the building. Consequently, the structure which might correspond to Applicant's claimed window sleeve is not independent of the window unit as is the case in Applicant's claimed invention.

The Examiner points out in this rejection that Card '894 does not disclose that the window sleeve is made of plastic and attempts to cure this deficiency by relying on Biro '091. As with the previous rejection, it is respectfully pointed out that Biro '091 is directed to a window unit structure

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rather than to a window sleeve structure. Moreover, as previously pointed out, Biro '091 discloses a sleeve structure but the sleeve structure is antithetical to Applicant's claimed sleeve structure in that in Biro '091, the sleeve structure appears to be made up of separate segments, the material of which is unspecified.

Claims 5, 6 and 11-16 are depended from claim 1 and therefore include all of the limitations of claim 1. Accordingly, these claims are patentable for the same reasons as claim 1. With respect to Card '894, the Examiner's attention is specifically directed to claim 12 which recites that the inner surfaces of the walls of Applicant's sleeve arrangement are planar and unobstructed so as to receive an independent window unit in the sleeve unit rather than having window unit structure as part of the window sleeve arrangement.

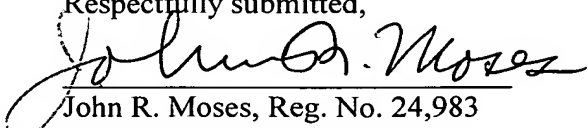
In view of these considerations, it is respectfully requested that this rejection of claims 1, 5, 6 and 11-16 under 35 U.S.C. §103(a), based on the combination of Card '894 and Biro '091, be withdrawn.

In that this is a full and complete response to the Office Action of June 27, 2005, this application is now in condition for allowance. If the Examiner for any reason feels a personal conference with Applicants' attorneys might expedite prosecution of this application, the Examiner is respectfully requested to telephone the undersigned.

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The Commissioner is hereby authorized to charge any fees associated with this response
or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,


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Date: September 27, 2005

Atty. Docket No. ROYAL-0004